

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

2008 MAR -4 P 3:13

ROGER JORDAN,

Plaintiff,

v.

EQUITY GROUP EUFAULA DIVISION, LLC,  
JENNIFER BAKER and RANDY CLINE

Defendants.

DEBRA P. HACKETT, CLK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA

No. 2:08 CV 152 - MEF

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**NOTICE OF REMOVAL**

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Pursuant to 28 U.S.C. §§ 1331, 1367, 1441(a) and (b), and 1446, defendants Equity Group Eufaula Division, LLC, Jennifer Baker and Randy Cline timely remove this action from the Circuit Court of Barbour County, Alabama, Clayton Division, to the United States District Court for the Middle District of Alabama, on the following grounds:

1. On or about January 31, 2008, plaintiff Roger Jordan ("Jordan") filed a Complaint in the Circuit Court of Barbour County, Alabama, Clayton Division, docketed at Civil Action No. CV-08-06 (the "State Court Action"), a copy of which is attached as part of Exhibit "A."
2. On February 11, 2008 and February 13, 2008, Jordan caused defendants to be served with the Complaint in the State Court Action
3. Prior to his termination on or about November 21, 2007, Jordan was employed as a line hanger by defendant Equity Group Eufaula Division, LLC ("Equity"), which operates a poultry processing plant located in Eufaula, Alabama. [Complaint, ¶ 5.]

4. Jordan purports to state two claims against defendants: (a) the allegedly wrongful termination of his employment after he suffered a catastrophic non-work related injury (while he was jumping on a trampoline) on November 21, 2007 and (b) the allegedly wrongful termination of his health insurance coverage and other benefits. [Complaint, ¶¶ 6-8.]

5. In particular, in Count II of his Complaint, Jordan alleges that his termination was “violative of the provisions of [Equity’s] employee handbook.” [Complaint, ¶ 3.]

6. In fact, Jordan is represented for purposes of collective bargaining by the Retail, Wholesale and Department Store Union (“Union”), and the terms of his employment, including the termination of his employment and the provision of health insurance coverage and other benefits, is subject to and governed by a collective bargaining agreement (“CBA”) between Equity and the Union.

7. Accordingly, Jordan’s purported state law claims are substantially dependent on an analysis of the CBA and, therefore, are completely preempted by Section 301(a) of the Labor Management Relations Act (“LMRA”), 29 U.S.C. § 185(a).

8. As such, Jordan’s claims arise under federal law, and this action is removable under 28 U.S.C. § 1441 based upon the Court’s federal question jurisdiction set forth in 28 U.S.C. § 1331, notwithstanding and as an exception to the “well pleaded complaint” rule. See, e.g., Atchley v. Heritage Cable Vision Associates, 101 F.3d 495 (7th Cir. 1996); Bolton v. McWane Cast Iron & Pipe Co., 328 F.Supp.2d 1229 (N.D. Ala. 2004).

9. Moreover, Jordan’s purported state law claims relating to and based on the allegedly improper termination of his health insurance benefits also are completely preempted by the Employee Retirement Security Act of 1974, 29 U.S.C. §§ 1001, et seq. (“ERISA”), as amended generally and by the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub.L.

No. 99-272, Title X, Section 100001(codified at 29 U.S.C. §§ 1161 et seq.) (“COBRA”). COBRA requires sponsors of ERISA group health plans to provide the option to elect continuation coverage in certain circumstances for a limited period of time following employment termination. See 29 U.S.C. §§ 1161(a), 1162. “A claim regarding the alleged wrongful denial of benefits to a plaintiff covered under such a continuation of coverage is governed by ERISA.” Mattive v. Healthsource of Savannah, Inc., 893 F.Supp. 1556 (S.D. Ga. 1996).

10. Claims are “super preempted”, or completely preempted, by ERISA, when the “plaintiff is seeking relief under 29 U.S.C. § 1132(a),” and “[r]egardless of the merits of plaintiff’s actual claims (recast as ERISA claims),” when four elements are satisfied.” Id. Butero v. Royal Maccabees Life Ins. Co., 174 F.3d 1207, 1212 (11<sup>th</sup> Cir. 1999). First, there must be a relevant ERISA plan. Id. Second, the plaintiff must have standing to sue under the ERISA plan. Id. Third, the defendant must fall within the definition of an “ERISA entity.” Id. Finally, the complaint must seek relief akin to that which is available under 29 U.S.C. § 1132(a). Id.

11. In this instance, these four elements are satisfied, and Jordan’s claims are completely preempted by ERISA, as follows:

a. The health insurance plan made the basis of Jordan’s claims was established and maintained by Equity for the purpose of providing medical insurance benefits to participants and thus constitutes an employee benefit plan. The summary plan description provided to employees expressly states that it is governed by ERISA.

b. As a participant in the plan at the time of his termination, Jordan has standing to assert a variety of claims under § 1132(a).

c. Equity is an ERISA entity because it was Jordan's employer. Morstein v. National Ins. Servs. Inc., 93 F.3d 715 (11<sup>th</sup> Cir. 1996).

d. The damages sought are akin to those remedies available under § 1132(a), which empowers a participant to "recover benefits due to him under the terms of his plan, to enforce his rights under the terms of the plan, or to clarify his rights to future benefits under the terms of the plan. . . ." 29 U.S.C. § 1132(a)(1)(B). In his Complaint, Jordan claims as part of his damages the loss of health insurance coverage and other benefits, as well as mental anguish, emotional distress, physical suffering, despair, frustration and humiliation. [Complaint, Count One, ¶ 3].

12. Jordan expressly claims he was damaged by his loss of health insurance coverage and medical treatments and services, which falls squarely within the reach of ERISA.

13. Jordan's artful characterization of other damages claims, cast in terms of outrageous conduct, emotional distress and fraud, cannot overcome or defeat preemption. See York v. Ramsay Youth Services of Dothan, 313 F.Supp.2d 1275 (M.D. Ala. 2004) (claim seeking return of plan premiums and reimbursement for medical costs caused by lapsed insurance coverage in addition to damages such as emotional distress is akin to relief available under 29 U.S.C. § 1132(a)).

14. Thus, although the Complaint does not specifically mention ERISA or COBRA<sup>1</sup>, Jordan's claims regarding the termination of his health insurance benefits and any failure to provide a COBRA notification arise under federal law, and this action is removable under 28 U.S.C. § 1441 based upon the Court's federal question jurisdiction set forth in 28 U.S.C. § 1331. See, e.g., Butero, supra; Wood v. Prudential Ins. Co. of America, 207 F.3d 674 (3d Cir. 2000).

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<sup>1</sup> Tellingly, Jordan served Plaintiff's First Request for Production of Documents, attached as part of Exhibit A, with the Complaint, pursuant to which he seeks copies of all notices Equity provided to him under COBRA.

15. In light of the complete preemption of Jordan's state law claims under LMRA and ERISA, removal of this action to federal court is appropriate notwithstanding, and as an exception to, the "well pleaded complaint" rule.

16. Inasmuch as the Court has original jurisdiction over any claims based on the termination of Jordan's employment and/or benefits, the Court has supplemental jurisdiction over any other possible claims which Jordan may suggest are stated in the Complaint. 28 U.S.C. §§ 1367(a), 1441(c).

17. This entire action is removable based upon the Court's original and supplemental jurisdiction. 28 U.S.C. §§ 1331, 1367, 1441(a), 1441(b), 1441(c), and 1446.

18. This Notice of Removal is being filed within thirty days of the service of the Complaint upon defendants pursuant to 28 U.S.C. § 1446(b).

19. True and correct copies of the Complaint, with all process and pleadings served or filed in the State Court Action as of the time of filing of this Notice of Removal, are attached as Exhibit "A."


20. True and correct copies of the Notice of Removal with accompanying exhibits and separate Notice to State Court of Filing of Notice of Removal of Civil Action will be served upon plaintiff's counsel and filed with the clerk of the Circuit Court of Barbour County, Alabama, in accordance with the provisions of 28 U.S.C. § 1446(d).

21. Pursuant to 28 U.S.C. § 1446, no bond is required to accompany this Notice of Removal and, therefore, no bond is being posted.

22. In filing this notice, defendants do not waive any available defenses in this action.

23. This Notice of Removal has been verified by the undersigned counsel for defendants, pursuant to 28 U.S.C. § 1446(a) and with respect to Rule 11 of the Federal Rules of Civil Procedure.

WHEREFORE, Defendants remove the State Court Action from the Circuit Court of Barbour County, Alabama, Clayton Division, to the United States District Court for the Middle District of Alabama.

  
Joel P. Smith, Jr. (SMI 192)  
Williams, Potthoff, Williams & Smith, LLC  
125 South Orange Avenue  
Eufaula, Alabama 36027  
[joelpsmith@bellsouth.net](mailto:joelpsmith@bellsouth.net)  
(334) 687-5834

**OF COUNSEL:**

Howard A. Rosenthal  
Patrick J. Doran  
Pelino & Lentz, P.C.  
One Liberty Place  
Thirty-Second Floor  
1650 Market Street  
Philadelphia, PA 19103-7393  
(215) 665-1540

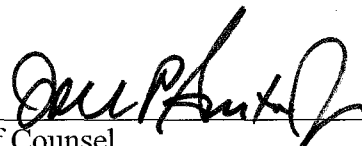
CERTIFICATE OF SERVICE

I hereby certify that on the 4<sup>th</sup> day of March, 2008 I served the foregoing upon counsel of record for all parties to this proceeding, by placing a copy thereof in the United States Mail, first class postage thereon prepaid and properly addressed as follows:

Walter Calton  
212 East Broad St.  
Eufaula, AL 36027

Leah Taylor  
Taylor & Taylor  
2130 Highland Avenue  
Birmingham, AL 35205

Shane Seaborn  
Penn & Seaborn  
P.O. Box 688  
Clayton, AL 36016

  
\_\_\_\_\_  
Of Counsel

IN THE CIRCUIT COURT OF BARBOUR COUNTY  
CLAYTON DIVISION

ROGER JORDAN,

Plaintiff,

v.

EQUITY GROUP EUFAULA DIVISION,  
LLC; JENNIFER BAKER; RANDY  
CLINE,

Defendants.

CIVIL ACTION NO.: CV 08-06

I certify this to be a true and correct copy of the  
original which is on file and entrolled in my office  
in Clayton or Eufaula, Barbour County, Alabama

Witness my hand and seal this  
3rd day of March 2008

S U M M O N S

David S. Nix  
David S. Nix, Clerk

This service by certified mail of this Summons is initiated  
upon the written request of Plaintiff's attorney pursuant to the  
Alabama Rules of Civil Procedure.

NOTICE TO: Equity Group Eufaula Division  
57 Melvin Clark Road  
Bakerhill, AL 36027

The Amended Complaint which is attached to this Summons is  
important and you must take immediate action to protect your  
rights. You are required to mail or hand deliver a copy of a  
written Answer, either admitting or denying each allegation in  
the Complaint, to Leah O. Taylor, Taylor & Taylor, 2130 Highland  
Avenue, Birmingham, Alabama 35205. THIS ANSWER MUST BE MAILED  
OR DELIVERED WITHIN THIRTY (30) DAYS FROM THE DATE OF DELIVERY  
OF THIS SUMMONS AND COMPLAINT AS EVIDENCED BY THE RETURN  
RECEIPT, OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR  
THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT. You must  
also file the original of your Answer with the Clerk of this  
Court within a reasonable time afterward.

DATED: 2-7, 2008

Nix  
Clerk, Barbour County, Alabama

Exhibit "A"



IN THE CIRCUIT COURT OF BARBOUR COUNTY  
CLAYTON DIVISION

ROGER JORDAN,

Plaintiff,

v.

EQUITY GROUP EUFAULA DIVISION,  
LLC; JENNIFER BAKER; RANDY  
CLINE,

Defendants.

CIVIL ACTION NO.: CV-08-06

S U M M O N S

This service by certified mail of this Summons is initiated upon the written request of Plaintiff's attorney pursuant to the Alabama Rules of Civil Procedure.

NOTICE TO: Jennifer Baker  
1435 Poorhouse Road  
Clayton, Alabama 36016

The Amended Complaint which is attached to this Summons is important and you must take immediate action to protect your rights. You are required to mail or hand deliver a copy of a written Answer, either admitting or denying each allegation in the Complaint, to **Leah O. Taylor, Taylor & Taylor, 2130 Highland Avenue, Birmingham, Alabama 35205**. THIS ANSWER MUST BE MAILED OR DELIVERED WITHIN THIRTY (30) DAYS FROM THE DATE OF DELIVERY OF THIS SUMMONS AND COMPLAINT AS EVIDENCED BY THE RETURN RECEIPT, OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT. You must also file the original of your Answer with the Clerk of this Court within a reasonable time afterward.

DATED: 2-7-, 2008

  
Clerk, Barbour County, Alabama

IN THE CIRCUIT COURT OF BARBOUR COUNTY  
CLAYTON DIVISION

ROGER JORDAN,

Plaintiff,

v.

EQUITY GROUP EUFAULA DIVISION,  
LLC; JENNIFER BAKER; RANDY  
CLINE,

Defendants.

CIVIL ACTION NO.: Cv0806

S U M M O N S

This service by certified mail of this Summons is initiated upon the written request of Plaintiff's attorney pursuant to the Alabama Rules of Civil Procedure.

NOTICE TO: Randy Cline  
427 Woodlawn Drive  
Eufaula, Alabama 36027

The Amended Complaint which is attached to this Summons is important and you must take immediate action to protect your rights. You are required to mail or hand deliver a copy of a written Answer, either admitting or denying each allegation in the Complaint, to Leah O. Taylor, Taylor & Taylor, 2130 Highland Avenue, Birmingham, Alabama 35205. THIS ANSWER MUST BE MAILED OR DELIVERED WITHIN THIRTY (30) DAYS FROM THE DATE OF DELIVERY OF THIS SUMMONS AND COMPLAINT AS EVIDENCED BY THE RETURN RECEIPT, OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT. You must also file the original of your Answer with the Clerk of this Court within a reasonable time afterward.

DATED: 2-7-, 2008

RyDix  
Clerk, Barbour County, Alabama

IN THE CIRCUIT COURT OF BARBOUR COUNTY  
CLAYTON DIVISION

**FILED**

JAN 31 2008

DAVID S. NIX, CLERK  
BARBOUR CO. ALABAMA

ROGER JORDAN,  
Plaintiff,

v.

CIVIL ACTION NO.: Cv 08-06

EQUITY GROUP EUFAULA DIVISION,  
LLC; JENNIFER BAKER; RANDY  
CLINE,  
Defendants.

**C O M P L A I N T**

1. Plaintiff, ROGER JORDAN, is an individual over the age of nineteen (19) years, and is a resident of Barbour County, Clayton Division, Alabama.

2. Defendant EQUITY GROUP EUFAULA DIVISION, LLC (hereinafter "EQUITY GROUP"), is a limited liability corporation, duly authorized to do business in Alabama, and which does business in Barbour County, Clayton Division, Alabama.

3. Defendant JENNIFER BAKER (hereinafter "BAKER") is an individual over the age of nineteen (19) years and is a resident of Barbour County, Clayton Division, Alabama. At all times material hereto, Defendant BAKER was acting within the line and scope of her employment with EQUITY GROUP.

4. Defendant RANDY CLINE (hereinafter "CLINE") is an individual over the age of nineteen (19) years and a resident of Barbour County, Alabama. At all times material hereto, Defendant CLINE was acting within the line and scope of his employment with EQUITY GROUP.

5. On and prior to November 21, 2007, Plaintiff was employed as a line hanger with Defendant EQUITY GROUP.

6. On November 20, 2007, Plaintiff suffered a catastrophic injury while jumping on a trampoline. As a result, Plaintiff was rendered quadriplegic.

7. After learning of Plaintiff's devastating injury, Defendants terminated Plaintiff's employment and cancelled Plaintiff's health insurance coverage and other benefits.

8. Defendants' termination of Plaintiff's employment after he had suffered a devastating injury was for pretextual reasons and was in violation of public policy and was done cruelly and maliciously.

COUNT ONE

1. Plaintiff realleges all previous allegations of this Complaint.

2. Plaintiff avers that the conduct of Defendants was outrageous, went beyond all bounds of human decency and should not be condoned, accepted or endured in a civilized society.

3. As a proximate result of Defendants' intentional and/or reckless conduct, Plaintiff has suffered damages as follows:

(a) Plaintiff has suffered severe mental anguish, emotional distress, physical suffering, despair, frustration and humiliation;

(b) Plaintiff was caused to lose health insurance coverage and other benefits;

(c) Plaintiff was caused to suffer the loss of medical treatments and services; and,

(d) Plaintiff will incur expenses necessitated by the filing of this lawsuit.

4. Defendants consciously and deliberately engaged in oppression, fraud, wantonness or malice with regard to Plaintiff, thereby depriving Plaintiff of legal rights and entitling him to punitive damages against Defendants.

WHEREFORE, Plaintiff, ROGER JORDAN, demands judgment against Defendants in such sum as a jury shall reasonably assess, including actual and punitive damages, plus interest, attorneys fees, and all costs of this proceeding in an amount exceeding the jurisdictional minimum of this Court.

COUNT TWO

1. Plaintiff realleges all previous allegations of this Complaint.

2. Defendants' termination of Plaintiff's employment on November 21, 2007, was violative of public policy.

3. Defendants' termination of Plaintiff's employment on November 21, 2007, was violative of the provisions of Defendant EQUITY GROUP'S employee handbook.

4. As a proximate result of Defendants' wrongful discharge, Plaintiff has been damaged as previously described herein.

WHEREFORE, Plaintiff, ROGER JORDAN, demands judgment against Defendants in such sum as a jury shall reasonably assess, including actual and punitive damages, plus interest, attorneys fees, and all costs of this proceeding in an amount exceeding the jurisdictional minimum of this Court.

Walter B. Calton  
WALTER CALTON

**OF COUNSEL:**

Walter Calton, Esq.  
312 East Broad Street  
P.O. Box 696  
Eufaula, AL 36027  
334-687-2407

**OF COUNSEL:**

Leah O. Taylor  
**TAYLOR & TAYLOR**  
2130 Highland Avenue  
Birmingham, Alabama 35205

**OF COUNSEL:**

Honorable Shane Seaborn  
**PENN & SEABORN, LLC**  
P.O. Box 688  
Clayton, Alabama 36016

**PLAINTIFF HEREBY DEMANDS A TRIAL BY STRUCK JURY IN THIS CAUSE.**

Walter B. Calton  
Of Counsel

**Defendants may be served by certified mail, return receipt requested as follows:**

Equity Group Eufaula Division  
57 Melvin Clark Road  
Bakerhill, AL 36027-4938

Jennifer Baker  
1435 Poorhouse Road  
Clayton, Alabama 36016

Randy Cline  
427 Woodlawn Drive  
Eufaula, Alabama 36027

IN THE CIRCUIT COURT OF BARBOUR COUNTY  
CLAYTON DIVISION

**FILED**

JAN 31 2008

DAVID S. NIX, CLERK  
BARBOUR CO. ALABAMA

ROGER JORDAN,

Plaintiff,

v.

EQUITY GROUP EUFAULA DIVISION,  
LLC; JENNIFER BAKER; RANDY  
CLINE,

Defendants.

CIVIL ACTION NO.: CV8806

**PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO  
DEFENDANT EQUITY GROUP EUFAULA DIVISION, LLC**

Comes now the Plaintiff and requests EQUITY GROUP EUFAULA DIVISION, LLC (hereinafter "EQUITY GROUP"), to produce the following documents pursuant to Rule 34(b) of the Alabama Rules of Civil Procedure:

1. The personnel file of ROGER JORDAN.
2. The employee handbook in effect on November 21, 2007.
3. Any and all evidence relied upon by Defendant EQUITY GROUP in terminating the employment of ROGER JORDAN on November 21, 2007.
4. All notices provided by this Defendant to ROGER JORDAN regarding his rights under the Consolidated Omnibus Reconciliation Act ("COBRA").
5. All correspondence or other communications between this Defendant and Blue Cross and Blue Shield of Alabama regarding ROGER JORDAN.



6. All insurance policies, endorsements, applications, certificates or other documents relating in any way to the health insurance coverage which ROGER JORDAN had with Blue Cross and Blue Shield of Alabama on November 20, 2007.

7. All internal memoranda, notes or other documents relating in any way to the termination of ROGER JORDAN.

8. All internal memoranda, notes or other documents relating in any way to any communication since November 1, 2007, between any employee of this Defendant and ROGER JORDAN or any family member of ROGER JORDAN.

9. All internal memoranda, notes or other documents relating in any way to any communication between any employee of this Defendant and any hospital or healthcare representative regarding ROGER JORDAN.

10. Any and all information received from Walmart regarding ROGER JORDAN.

  
WALTER CALTON

**OF COUNSEL:**

Walter Calton, Esq.  
312 East Broad Street  
P.O. Box 696  
Eufaula, AL 36027  
334-687-2407

**OF COUNSEL:**

Leah O. Taylor  
**TAYLOR & TAYLOR**  
2130 Highland Avenue  
Birmingham, Alabama 35205  
(205) 558-2800

**OF COUNSEL:**

Honorable Shane Seaborn  
**PENN & SEABORN, LLC**  
P.O. Box 688  
Clayton, Alabama 36016

**PLEASE SERVE PLAINTIFF'S FIRST REQUEST FOR PRODUCTION UPON  
DEFENDANT ALONG WITH THE SUMMONS AND COMPLAINT.**

IN THE CIRCUIT COURT OF BARBOUR COUNTY  
CLAYTON DIVISION

**FILED**

JAN 31 2008

ROGER JORDAN,  
Plaintiff,

DAVID S. NIX, CLERK  
BARBOUR CO. ALABAMA

v.

CIVIL ACTION NO.: CV 08-06

EQUITY GROUP EUFAULA DIVISION,  
LLC; JENNIFER BAKER; RANDY  
CLINE,

Defendants.

**30(b)(6) NOTICE OF DEPOSITION TO DEFENDANT  
EQUITY GROUP EUFAULA DIVISION, LLC**

PLEASE TAKE NOTICE that Plaintiff, pursuant to Rule 30(b)(6) of the Alabama Rules of Civil Procedure, will take the deposition of that person or those persons who has the most knowledge of the following, before a duly authorized court reporter or notary public on **the 24<sup>th</sup> day of March, 2008, beginning at 9 o'clock A.M.**, at the Offices of Walter Calton, 312 East Broad Street, Eufaula, Alabama 36027. Said deposition will continue from day to day thereafter until completed. You are invited to attend and cross-examine if you so desire.

Pursuant to Rule 30(b)(6), the Plaintiff requests that **EQUITY GROUP EUFAULA DIVISION, LLC** designate one or more managing agents or employees who is most knowledgeable in the below listed areas to testify as a representative of the Defendant **EQUITY GROUP EUFAULA DIVISION, LLC**. The relevant areas of inquiry are as follows:

1. The date of this Defendant's termination of the employment of ROGER JORDAN.
2. Each and every reason why this Defendant terminated

the employment of ROGER JORDAN.

3. This Defendant's employee handbook in effect on November 21, 2007.

4. Communications between this Defendant and Blue Cross and Blue Shield regarding health insurance coverage for ROGER JORDAN.

5. This Defendant's communications with Plaintiff or any of Plaintiff's family members since November 1, 2007.

6. The health insurance coverage which ROGER JORDAN had on November 20, 2007.

7. Every notice provided by this Defendant to ROGER JORDAN regarding his rights under the Consolidated Omnibus Reconciliation Act (COBRA").

8. Each and every reason why this Defendant deprived ROGER JORDAN of continued health insurance coverage.

**Pursuant to Rule 30(b)(5) of the Alabama Rules of Civil Procedure, the above-named deponent or deponents are hereby requested to provide the following documents on or before the 21<sup>st</sup> day of March, 2008:**

1. The personnel file of ROGER JORDAN.
2. The employee handbook in effect on November 21, 2007.
3. Any and all evidence relied upon by Defendant EQUITY GROUP in terminating the employment of ROGER JORDAN on November 21, 2007.
4. All notices provided by this Defendant to ROGER JORDAN

regarding his rights under the Consolidated Omnibus Reconciliation Act ("COBRA").

5. All correspondence or other communications between this Defendant and Blue Cross and Blue Shield of Alabama regarding ROGER JORDAN.

6. All insurance policies, endorsements, applications, certificates or other documents relating in any way to the health insurance coverage which ROGER JORDAN had with Blue Cross and Blue Shield of Alabama on November 20, 2007.

7. All internal memoranda, notes or other documents relating in any way to the termination of ROGER JORDAN.

8. All internal memoranda, notes or other documents relating in any way to any communication since November 1, 2007, between any employee of this Defendant and ROGER JORDAN or any family member of ROGER JORDAN.

9. All internal memoranda, notes or other documents relating in any way to any communication between any employee of this Defendant and any hospital or healthcare representative regarding ROGER JORDAN.

10. Any and all information received from Walmart regarding ROGER JORDAN.

Walter B. Calton  
WALTER CALTON

**OF COUNSEL:**

Walter Calton, Esq.  
312 East Broad Street  
P.O. Box 696  
Eufaula, AL 36027  
334-687-2407

**OF COUNSEL:**

Leah O. Taylor  
**TAYLOR & TAYLOR**  
2130 Highland Avenue  
Birmingham, Alabama 35205  
Telephone: (205) 558-2800

**OF COUNSEL:**

Honorable Shane Seaborn  
**PENN & SEABORN, LLC**  
P.O. Box 688  
Clayton, Alabama 36016

**PLEASE SERVE PLAINTIFF'S NOTICE TO TAKE DEPOSITION TO DEFENDANT  
EQUITY GROUP EUFAULA DIVISION, LLC ALONG WITH THE SUMMONS AND  
COMPLAINT FILED CONTEMPORANEOUSLY HEREWITH**

IN THE CIRCUIT COURT OF BARBOUR COUNTY  
CLAYTON DIVISION

**FILED**  
JAN 31 2008

DAVID S. NIX, CLERK  
BARBOUR CO. ALABAMA

ROGER JORDAN,

Plaintiff,

v.

CIVIL ACTION NO.: \_\_\_\_\_

EQUITY GROUP EUFAULA DIVISION,  
LLC; JENNIFER BAKER; RANDY  
CLINE,

Defendants.

**NOTICE OF DEPOSITION TO DEFENDANT  
JENNIFER BAKER**

PLEASE TAKE NOTICE that Plaintiff will take the deposition of **Jennifer Baker** before a duly authorized court reporter or notary public on **the 25<sup>th</sup> day of March, 2008, beginning at 1:30 p.m.**, at the Offices of Walter Calton, 312 East Broad Street, Eufaula, Alabama 36027. Said deposition will continue from day to day thereafter until completed. You are invited to attend and cross-examine if you so desire.

Walter R. Calton  
WALTER CALTON

**OF COUNSEL:**

Walter Calton, Esq.  
312 East Broad Street  
P.O. Box 696  
Eufaula, AL 36027  
334-687-2407

**OF COUNSEL:**

Leah O. Taylor  
**TAYLOR & TAYLOR**  
2130 Highland Avenue  
Birmingham, Alabama 35205  
Telephone: (205) 558-2800

**OF COUNSEL:**

Honorable Shane Seaborn  
**PENN & SEABORN, LLC**  
P.O. Box 688  
Clayton, Alabama 36016

**PLEASE SERVE PLAINTIFF'S NOTICE TO TAKE DEPOSITION TO DEFENDANT  
JENNIFER BAKER ALONG WITH THE SUMMONS AND COMPLAINT FILED  
CONTEMPORANEOUSLY HERewith**



FILED

JAN 31 2008

DAVID S. NIX, CLERK  
BARBOUR CO. ALABAMA

IN THE CIRCUIT COURT OF BARBOUR COUNTY  
CLAYTON DIVISION

ROGER JORDAN,

Plaintiff,

v.

EQUITY GROUP EUFAULA DIVISION,  
LLC; JENNIFER BAKER; RANDY  
CLINE,

Defendants.

CIVIL ACTION NO.: Cv 2506

NOTICE OF DEPOSITION TO DEFENDANT  
RANDY CLINE

PLEASE TAKE NOTICE that Plaintiff will take the deposition of **Randy Cline** before a duly authorized court reporter or notary public on the 25<sup>th</sup> day of March, 2008, beginning at 9 o'clock A.M., at the Offices of Walter Calton, 312 East Broad Street, Eufaula, Alabama 36027. Said deposition will continue from day to day thereafter until completed. You are invited to attend and cross-examine if you so desire.

Walter B. Calton  
WALTER CALTON

OF COUNSEL:

Walter Calton, Esq.  
312 East Broad Street  
P.O. Box 696  
Eufaula, AL 36027  
334-687-2407

OF COUNSEL:

Leah O. Taylor  
**TAYLOR & TAYLOR**  
2130 Highland Avenue  
Birmingham, Alabama 35205  
Telephone: (205) 558-2800

**OF COUNSEL:**

Honorable Shane Seaborn  
**PENN & SEABORN, LLC**  
P.O. Box 688  
Clayton, Alabama 36016

PLEASE SERVE PLAINTIFF'S NOTICE TO TAKE DEPOSITION TO DEFENDANT  
RANDY CLINE ALONG WITH THE SUMMONS AND COMPLAINT FILED  
CONTEMPORANEOUSLY HERewith

**CIVIL ACTION NO. CV-2008-6**

**OF COUNSEL:**  
**WILLIAMS, POTTHOFF, WILLIAMS**  
**& SMITH, L.L.C.**  
**Post Office Box 880**  
**Eufaula, Alabama 36072-0880**  
**Telephone (334) 687-5834**  
**Facsimile (334) 687-5722**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 15<sup>th</sup> day of February, 2008, a copy of the foregoing was served upon the following counsel of record by electronic service, or if counsel's address is not listed on the court's electronic filing system, by depositing a copy of same in the U.S. Mail, properly addressed, postage prepaid:

Walter B. Calton, Esq.  
Post Office Box 696  
Eufaula, Alabama 36072

Leah O. Taylor, Esq.  
TAYLOR & TAYLOR  
2130 Highland Avenue  
Birmingham, Alabama 35205

L. Shane Seaborn, Esq.  
PENN & SEABORN, LLC  
Post Office Box 688  
Clayton, Alabama 36016

/s/ Joel P. Smith, Jr.  
Of Counsel



## AlaFile E-Notice

06-CV-2008-000006.00

To: JOEL SMITH  
joelpSmith@bellsouth.net

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## NOTICE OF ELECTRONIC FILING

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IN THE CIRCUIT COURT OF BARBOUR COUNTY, ALABAMA

ROGER JORDAN VS EQUITY GROUP (EUFAULA DIV,LLC ET AL)  
06-CV-2008-000006.00

The following NOTICE OF APPEARANCE was FILED on 2/15/2008 10:10:22 AM

Notice Date: 2/15/2008 10:10:22 AM

DAVID NIX  
CIRCUIT COURT CLERK  
BARBOUR COUNTY, ALABAMA  
P.O. BOX 219  
CLAYTON, AL 36016  
  
334-775-8366  
david.nix@alacourt.gov

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to: *CV-08-06*  
*Jennifer Baker*  
*1435 Poorhouse Road*  
*Clayton, AL*  
*36016*

2. Article Number

(Transfer from service label)

7006 0100 0002 7192 2072

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *Zina Williams*

- ☐ Agent  
☐ Addressee

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C. Date of Delivery

*2-13-08*

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4. Restricted Delivery? (Extra Fee)

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PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

State of Alabama  
Unified Judicial System**COVER SHEET**  
**CIRCUIT COURT - CIVIL CASE**  
(Not For Domestic Relations Cases)

Form ARCivP-93 Rev. 5/99

Case Num:

CV 2008

Date of Filing:

01 21 2008  
Month Day Year

Judge Code:

**GENERAL INFORMATION**IN THE CIRCUIT COURT OF Barbour, ALABAMA  
(Name of County)Roger Jordan v. Equity Group Eufaula Division, LLC, et al  
Plaintiff DefendantFirst Plaintiff ☐ Business ☒ Individual  
☐ Government ☐ OtherFirst Defendant ☒ Business ☐ Individual  
☐ Government ☐ Other

NATURE OF SUIT: Select primary cause of action, by checking box (check only one) that best characterizes your action:

**TORTS: PERSONAL INJURY**

- ☐
- WDEA - Wrongful Death
- 
- ☐
- TONG - Negligence: General
- 
- ☐
- TOMV - Negligence: Motor Vehicle

**OTHER CIVIL FILINGS (cont'd)**

- ☐
- MSXX - Birth/Death Certificate Modification/Bond Forfeiture Appeal/
- 
- Enforcement of Agency Subpoena/Petition to Preserve
- 
- ☐
- CIVR - Civil Rights

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Sent To

Equity Group  
Street, Apt. No.,  
or PO Box No. 57 Melvin Clark Rd.  
City, State, ZIP+4  
Bakerhill AL 36027

PS Form 3800, June 2002

See Reverse for Instructions

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City, State, ZIP+4  
Eufaula, AL 36027

PS Form 3800, June 2002

See Reverse for Instructions

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Jenn: Baker  
Street, Apt. No.,  
or PO Box No. 1435 Poorhouse Road  
City, State, ZIP+4  
Clanton AL 36016

PS Form 3800, June 2002

See Reverse for Instructions

HAS JURY TRIAL BEEN DEMAND

RELIEF REQUESTED:

☒ MONETARY

ATTORNEY CODE:

C A L O 3 6

Date

1-31

MEDIATION REQUESTED: ☐I constitute a demand for a  
Ala.R.Civ.P., for procedure)

) REQUESTED

IN THE CIRCUIT COURT OF BARBOUR COUNTY  
CLAYTON DIVISION

**FILED**

JAN 31 2008

DAVID S. NIX, CLERK  
BARBOUR CO. ALABAMA

ROGER JORDAN,  
Plaintiff,

v.

CIVIL ACTION NO.: Cv 08-06

EQUITY GROUP EUFAULA DIVISION,  
LLC; JENNIFER BAKER; RANDY  
CLINE,  
Defendants.

**C O M P L A I N T**

1. Plaintiff, ROGER JORDAN, is an individual over the age of nineteen (19) years, and is a resident of Barbour County, Clayton Division, Alabama.

2. Defendant EQUITY GROUP EUFAULA DIVISION, LLC (hereinafter "EQUITY GROUP"), is a limited liability corporation, duly authorized to do business in Alabama, and which does business in Barbour County, Clayton Division, Alabama.

3. Defendant JENNIFER BAKER (hereinafter "BAKER") is an individual over the age of nineteen (19) years and is a resident of Barbour County, Clayton Division, Alabama. At all times material hereto, Defendant BAKER was acting within the line and scope of her employment with EQUITY GROUP.

4. Defendant RANDY CLINE (hereinafter "CLINE") is an individual over the age of nineteen (19) years and a resident of Barbour County, Alabama. At all times material hereto, Defendant CLINE was acting within the line and scope of his employment with EQUITY GROUP.



5. On and prior to November 21, 2007, Plaintiff was employed as a line hanger with Defendant EQUITY GROUP.

6. On November 20, 2007, Plaintiff suffered a catastrophic injury while jumping on a trampoline. As a result, Plaintiff was rendered quadriplegic.

7. After learning of Plaintiff's devastating injury, Defendants terminated Plaintiff's employment and cancelled Plaintiff's health insurance coverage and other benefits.

8. Defendants' termination of Plaintiff's employment after he had suffered a devastating injury was for pretextual reasons and was in violation of public policy and was done cruelly and maliciously.

COUNT ONE

1. Plaintiff realleges all previous allegations of this Complaint.

2. Plaintiff avers that the conduct of Defendants was outrageous, went beyond all bounds of human decency and should not be condoned, accepted or endured in a civilized society.

3. As a proximate result of Defendants' intentional and/or reckless conduct, Plaintiff has suffered damages as follows:

(a) Plaintiff has suffered severe mental anguish, emotional distress, physical suffering, despair, frustration and humiliation;

(b) Plaintiff was caused to lose health insurance coverage and other benefits;

(c) Plaintiff was caused to suffer the loss of medical treatments and services; and,

(d) Plaintiff will incur expenses necessitated by the filing of this lawsuit.

4. Defendants consciously and deliberately engaged in oppression, fraud, wantonness or malice with regard to Plaintiff, thereby depriving Plaintiff of legal rights and entitling him to punitive damages against Defendants.

WHEREFORE, Plaintiff, ROGER JORDAN, demands judgment against Defendants in such sum as a jury shall reasonably assess, including actual and punitive damages, plus interest, attorneys fees, and all costs of this proceeding in an amount exceeding the jurisdictional minimum of this Court.

COUNT TWO

1. Plaintiff realleges all previous allegations of this Complaint.

2. Defendants' termination of Plaintiff's employment on November 21, 2007, was violative of public policy.

3. Defendants' termination of Plaintiff's employment on November 21, 2007, was violative of the provisions of Defendant EQUITY GROUP'S employee handbook.

4. As a proximate result of Defendants' wrongful discharge, Plaintiff has been damaged as previously described herein.

WHEREFORE, Plaintiff, ROGER JORDAN, demands judgment against Defendants in such sum as a jury shall reasonably assess, including actual and punitive damages, plus interest, attorneys fees, and all costs of this proceeding in an amount exceeding the jurisdictional minimum of this Court.

Walter B. Calton  
WALTER CALTON

**OF COUNSEL:**

Walter Calton, Esq.  
312 East Broad Street  
P.O. Box 696  
Eufaula, AL 36027  
334-687-2407

**OF COUNSEL:**

Leah O. Taylor  
**TAYLOR & TAYLOR**  
2130 Highland Avenue  
Birmingham, Alabama 35205

**OF COUNSEL:**

Honorable Shane Seaborn  
**PENN & SEABORN, LLC**  
P.O. Box 688  
Clayton, Alabama 36016

**PLAINTIFF HEREBY DEMANDS A TRIAL BY STRUCK JURY IN THIS CAUSE.**

Walter B. Calton  
Of Counsel

**Defendants may be served by certified mail, return receipt requested as follows:**

Equity Group Eufaula Division  
57 Melvin Clark Road  
Bakerhill, AL 36027-4938

Jennifer Baker  
1435 Poorhouse Road  
Clayton, Alabama 36016

Randy Cline  
427 Woodlawn Drive  
Eufaula, Alabama 36027

DUPLICATE

Court Name: U S DISTRICT COURT - AL/M  
Division: 2  
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Case/Party: D-ALM-2-08-CV-000152-001  
Amount: \$350.00

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CHECK  
Check/Money Order Num: 18781  
Amt Tendered: \$350.00

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Total Due: \$350.00  
Total Tendered: \$350.00  
Change Amt: \$0.00

JORDAN V EQUITY ET AL